IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 18302 of 2001

Between:

D.A.Rao E-376281, S/o Vardhaiah
Bhimavaram, W.G.Dist.

..... PETITIONER

AND

1 The APSRTC., Rep by its DY.CTM, Regional Manager,
Eluru, W.G.Dist.
2 The APSRTC., Rep by its Depot Manger,
Bhimavaram Depot, W.G.Dist.
3 The APSRTC., Rep by its Depot Manger,
Narsapuram Depot, Narasapuram, W.G.Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of writ of mandamus declaring the action of the R3 herein in imposing the punishment of deferment of annual increment for a period of 2 years with cumulative effect on the allegation of shortage of bus cash vide Procd No.02/62(128)/99-BVRM dt 21-6-99 which was confirmed by the appellate authority in proc. no.steno/19(25)/2000 DY.CTM, WG DIST DT 26-2-2000 as illegal, as illegal, unjust, arbitrary & violation of Prl of Natural justice, contrary to the well establishment prl of law & as such liable to be set aside in the interest of justice

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondents: MR.R.MANMADHA REDDY (SC FOR APSRTC)

The Court made the following :

ORDER:

Declaring the action of the 3rd respondent in imposing the punishment of deferment of annual increment for a period of two years with cumulative effect on the allegation of shortage of bus cash vide proceedings No.02/62(128)/99-BVRM, dated 21.06.1999 which was confirmed by the appellate authority in proceedings No. Steno/19(25)/2000-Dy.CTM, WG, Dt: 26.02.2000 as illegal and arbitrary.

The brief facts that are necessary for the disposal of the writ petition are as follows:

Petitioner was appointed in APSRTC as Conductor on 31.07.1996. On 12.02.1999 a check was conducted by the T.T.Is of Regional Enforcement Squad, West Godavari Region, Eluru on route Ganapavaram to Bhimavaram at 8.30 P.m., found that the petitioner issued tickets to all passengers properly and all the ticket denominations were found correct, but there is a shortage of cash of Rs.14.25ps. While the checking officials prepared a charge memo and asked him to acknowledge the same for which he refused and requested them that as he is ready and willing to pay the shortage amount from his pocket. The passengers also requested the checking officials that it is not fault on the part of the Conductor, but due to shortage of coins only there was shortage of four rupees, which is simple thing.

The learned Standing Counsel for APSRTC filed Counter contending that at the time of inspection by the Checking officials conducting a check on route Bhimavaram to Ganapavaam on 14.10.1997, found that the petitioner had an amount of Rs.10/- excess in the private cash, for which a charge memo bearing No. 0115734 dated 14.10.1998 was issued. While giving spot explanation, the petitioner

has complained against the TTIs stating that they have taken away a sum of Rs.20/- after checking private cash and requested to recover a sum of Rs.10/- from the TTI's. Basing on the above complaint, a preliminary enquiry was conducted duly nominating the Chief Inspector, Bhimavaram as an Enquiry Officer. After conducting enquiry, a charge sheet dated 22.10.1998 was issued to him. As the explanation submitted by the petitioner to the charge sheet, is not convincing, final order No.02/62(128)/99-BVRM, dated 21.06.1999 was issued.

There cannot be any dispute that without conducting any enquiry no major penalty can be imposed. Admittedly, in this case, no regular departmental enquiry is conducted against the writ petitioner. After calling for his explanation, the impugned proceedings have been passed. The disciplinary authority imposed the punishment of deferment of annual increment for a period of two years, which will have the effect of postponing the future increments also. A similar view has been taken by this Court in Writ Petition 8523 of 2005, dated 19.04.2005 in A.V.S.N.Murthy Vs. The APSRC Visakhapatnam Region. Following the above judgment, the punishment is set aside. Since the incident has taken place about five years back, it is not desirable to remit the matter to the disciplinary authority, for conducting fresh enquiry. Even the learned Counsel for the petitioner contended that instead of remanding the matter, a minor penalty can be imposed to the petitioner.

Considering all these circumstances, the punishment of stoppage of annual increment for a period of two years with future effect imposed on the petitioner is modified to that of without any cumulative effect. By virtue of this order, the petitioner is not entitled for any monetary benefits, but he is entitled to notional calculation from the date of this order.

Writ petition is disposed of. No order as to costs.

13.07.2005

MRKR

To

1 The Deputy Chief Traffic Manager, O/o the Regional Manager, APSRTC., Eluru, W.G.Dist.
2 The Depot Manager, APSRTC.,
Bhimavaram Depot, W.G.Dist.
3 The Depot Manager, APSRTC.,
Narsapuram Depot, Narasapuram, W.G.Dist.

4 Two C.D.copies.